TABLE OF CONTENTS

CHAPTER 23-600 PURCHASE OF SERVICE

	Section
Purchase of Service	23-600
Purchase of Service from a Public or Private Agency	23-601
Code of Conduct	23-602
Contract Provisions	23-604
Formal Advertising: Invitations for Bids and Requests for Proposals	23-610
Submission of Bids or Proposals	23-611
Receipt and Evaluation of Bids	23-612
Receipt and Evaluations of Proposals	23-613
Canceling the Procurement Process After Opening	23-614
Rejection of Bids or Proposals	23-615
Information Regarding Responsibility of Contractors	23-616
Award of Contract	23-620
Contract Periods	23-621
Renewal Procedures	23-622
Protests	23-624
Public Hearing	23-625
SDSS Review	23-630
Evaluation of Contracts	23-640
Procurement by Negotiation	23-650

CHAPTER 23-600 PURCHASE OF SERVICE

23-601 PURCHASE OF SERVICE FROM A PUBLIC OR PRIVATE AGENCY 23-601

HANDBOOK BEGINS HERE

.1 The regulations contained in this Chapter provide policies and requirements for county welfare departments' purchases of services from public or private agencies involving funds administered by the California Department of Social Services (CDSS). It defines types of contracts and CDSS policies and requirements with regard to their use.

HANDBOOK ENDS HERE

.11 When the county has been delegated the authority to purchase services by contract through CDSS regulations it shall have the authority to delegate to the contractor the delivery of services, but the county must retain ultimate program and fiscal responsibility.

HANDBOOK BEGINS HERE

.111 Contract delegation authority cross-references:

Section 10-200	Section 29-400
Section 10-201	Section 30-002
Section 10-202	Section 30-767.12
Section 10-203	Section 42-740 - 742
Section 25-830	Section 42-773
Section 28-005	Section 63-601.2

HANDBOOK ENDS HERE

.12 Prior to initiating purchase of service processes, counties shall research the available resources among government agencies, and private firms and agencies, to determine the cost-effectiveness and program-effectiveness of contracting such services. If a decision is made to contract, such contracting shall be consistent with county civil service practices and regulations.

23-601 PURCHASE OF SERVICE FROM A PUBLIC OR PRIVATE AGENCY 23-601
(Continued)

.121 In developing child welfare services for Emergency Response Services, Child Protective Services and Family Maintenance Services, Family Reunification Services, and Permanent Placement Services the county shall use available private child welfare resources prior to developing new county operated resources when the private resources are at least of equal quality, and lesser or equal cost as compared with county operation. However, the county shall not contract for eligibility determination, needs assessment, or any other activity otherwise prohibited in CDSS regulations.

HANDBOOK BEGINS HERE

.122 The following services are defined in Welfare and Institutions Code Sections:

Emergency Response Services
Welfare and Institutions Code Section 16504.1

Family Maintenance Services
Welfare and Institutions Code Section 16506.1

Family Reunification Services
Welfare and Institutions Code Section 16507.1

Permanent Placement Services
Welfare and Institutions Code Section 16508.1

.13 Additional requirements concerning the award of contracts under the Food Stamp Program are contained in Chapter 63-600.

.14 Additional requirements concerning contracting for electronic data processing are contained in Division 28.

.15 Additional requirements concerning contracting for the GAIN Program are contained in Section 42-700.

HANDBOOK ENDS HERE

23-601 PURCHASE OF SERVICE FROM A PUBLIC OR PRIVATE AGENCY 23-601
(Continued)

.16 Whenever the term "costs" is used, CDSS requires that such costs be determined, and/or negotiated in accordance with the appropriate federal standards and principles.

HANDBOOK BEGINS HERE

.161 The current cost principles are as follows:

(a) For nonprofit agencies, OMB Circular A-122.

(b) For local governments, OMB Circular A-87.

(c) For public and nonprofit institutions of higher education, OMB Circular A-121.

(d) For profit making organizations, 41 CFR Part 1.

(e) For the Food Stamp Program, 7 CFR Part 277.

HANDBOOK ENDS HERE

.2 Definitions

.21 "Formal Advertising" means procurement by competitive bids through an invitation for bid or request for proposal and involves the following basic steps:

.211 Preparation of an invitation for bid or request for proposal.

.212 Publicizing the invitation for bid or request for proposal.

.213 Submission of bids or proposals by prospective contractors.

.214 Evaluation of the bids or proposals submitted.

.215 Award of the contract.

.22 An "Invitation for Bid" (IFB) means the county's description, in document form, of specific services to be purchased, in addition to other contract requirements. Awards shall be made to the lowest, responsible and responsive bidder.

23-601 PURCHASE OF SERVICE FROM A PUBLIC OR PRIVATE AGENCY 23-601
(Continued)

.23 A "Request for Proposals" (RFP) means the county's description, in document form, of a specific problem or need to which a vendor describes an approach to a solution or solutions. It also contains other contract requirements. Although price is a key factor, the originality and effectiveness of the proposal and the background and experience of the vendor are evaluated in addition to the bid price.

.24 A "Responsible Bidder" means one who:

.241 Possesses adequate financial resources, or the ability to obtain such resources as required during performance of the contract; and

.242 Has the ability to comply with the proposed delivery or performance schedule, taking into consideration available expertise and any existing business commitments; and

.243 Has no record of unsatisfactory performance, lack of integrity, or poor business ethics; and

.244 Is otherwise qualified and eligible to receive an award under applicable statutes and regulations.

.25 A "Responsive Bidder" means one whose bid or proposal substantially complies with all requirements of the IFB or RFP.

.26 A "Preaward Survey" means an evaluation of a prospective contractor's performance capability under the terms of a proposed contract.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-602 CODE OF CONDUCT 23-602

.1 The county shall maintain a written code or standard of conduct that shall govern the performance of its officers, employees and agents engaged in the awarding and administration of contracts that are subject to Chapter 23-600.

.2 The code or standard shall provide for disciplinary actions to be applied for violations of such code or standard by the county's officers, employees, and agents, including contractors and their agents.

.21 Such disciplinary actions shall be required to the extent permissible under the county's laws, rules, or regulations.

23-602 CODE OF CONDUCT (Continued) 23-602

.3 The county's officers, employees and agents, including contractors and their agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors.

.4 No employee, officer, or agent of the county shall participate in the selection, award, or administration of a contract subject to Chapter 23-600 where any of the following has a financial or other interest in that contract:

.41 The employee, officer, or agent.

.42 Any member of his or her immediate family.

.43 His or her business partner.

.44 An organization in which any of the above is, or has been during the previous 12 months, an officer, director, board member, employee or consultant.

.45 A person or organization with whom any of the above individuals is negotiating employment or has any arrangement concerning prospective employment.

.46 Other interests as the county may elect to specify in its Code of Conduct.

.5 Counties shall follow national policy to award a fair share of business to small, minority, and women-owned firms. The affirmative steps that shall be taken towards this goal are set forth in 45 CFR Part 74, Subpart P, Appendix G.9 and 7 CFR 277.14(e).

23-604 CONTRACT PROVISIONS 23-604

This section contains provisions that shall be included in county contracts for services whether procured through formal advertising or negotiation. The requirements shall also apply to subcontracts of any tier under such contracts.

.1 All contracts shall be written and contain all of the terms and conditions agreed to by the parties and shall constitute the complete agreement between them.

23-604 CONTRACT PROVISIONS (Continued) **23-604**

.2 When available, counties shall utilize CDSS standard contracts and standardized language. Any deviation from a departmental standard contract must have prior CDSS approval. However, a county shall be permitted to add its own contracting requirements to any state standard contract without prior state approval, as long as the addition does not conflict with the standard contract, standardized language, or the other requirements of these regulations.

.21 All counties shall be notified in writing when the state requires standard contracts or standardized language. A county seeking deviations from the standards shall make their request in writing, explaining the reasons for the deviations. A county shall seek state approval of such deviations at least 90 days prior to the start of any contracts with the deviation. CDSS shall review the request for deviation in terms of compliance with applicable state and federal laws and regulations, and forward a written response to the county. CDSS will notify the county within fifteen (15) calendar days of receipt, if the required information is complete, or deficient, and within forty-five (45) calendar days upon receipt of complete information of its decision on the deviation.

.22 The state has no current standards contracts, and records on review times of past standard contracts variations are no longer available.

.3 Specific components of each contract shall include;

.31 Provisions stating the parties to the contract, the purpose of contract, the date of execution and applicable laws and regulations.

.32 Definitions of terms unique to the contract or contracted service.

.33 Duties and responsibilities of the county, the provider, and any joint duties and responsibilities.

.34 A provision requiring that the contract be signed by authorized representatives of all contracting parties.

23-604 CONTRACT PROVISIONS (Continued) **23-604**

.35 A provision setting forth definite effective and termination dates.

.36 A budget sheet segregated into direct and indirect costs and profit for the contract. Budgeted expenses shall be reduced by applicable contractor revenues which shall be identified. The line items shall provide sufficient detail to determine the quality and quantity of services to be delivered. The budget shall be made a part of the contract.

.37 Fiscal provisions which shall include:

.371 A provision requiring the contractor to maintain books, records, documents and other evidence pertaining to costs and expenses of the contract.

.372 Provisions specifying the method, time, and rates of payment for services, including the abatement of disposition of fees and identification and treatment of other income for costs related to the contract.

.373 A provision that the contractors' records shall be open for audit and review by county, state and federal agencies, including CDSS. Such records shall be kept in the State of California for the retention period specified in the contract in accordance with state records retention regulations, Section 23-353.

.374 A provision specifying use of the firm-fixed price method of reimbursement. However, agreements for any service to be rendered by any federal, state or local government agency, public university, public college or other public educational institution, shall use the actual cost method of reimbursement, but shall include an estimate of the total amount which shall be adjusted by amendment to reflect actual expenditures.

.375 When federal funds are involved, a provision requiring provider compliance with all federal rules including the applicable sections of the Code of Federal Regulations.

23-604 CONTRACT PROVISIONS (Continued) **23-604**

.38 The following general provisions shall be included in the contract, in addition to those set forth above:

(a) A provision for appropriate remedies, such as fiscal penalties or withholding of payment, in instances where the contractor violates or breaches contract terms.

(b) A provision for monitoring the contractor's performance to assure compliance with the terms, conditions and specifications of the contract.

(c) A requirement to comply with the confidentiality provisions of Section 10850 of the Welfare and Institutions Code and MPP Division 19 if the contractor will be working with records covered by those sections.

(d) A clause prohibiting discrimination by the contractor in either employment practices or delivery of services, in accordance with applicable state and federal regulations.

(e) A clause recognizing the mandatory standards and policies relating to energy efficiency in the state energy conservation plan, (Title 24, California Administrative Code).

(f) A clause, in contracts in excess of $100,000, requiring compliance with Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR Part 15).

(g) A clause, in contracts in excess of $10,000, requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR Part 60).

(h) A clause for unilateral termination by the county that includes the methods by which termination will be effected, the basis for settlement, and a description of the conditions under which the contract may be terminated because of circumstances beyond the control of the contractor.

(i) A provision for amendments or modifications.

23-604 CONTRACT PROVISIONS (Continued) **23-604**

(j) A provision stating the circumstances, if any, when assignment or subcontracting may be used.

(k) A provision requiring the contractor to establish a procedure to resolve client grievances.

(l) Clause(s) providing for bonding, insurance and indemnification, in accordance with the county's established standards.

.4 When amendments appear necessary, the county shall observe the following criteria:

.41 If a formally advertised contract is amended to increase services within its original term and the amendment will result in a cost increase in excess of ten percent of the contract maximum, the contract shall be rebid, or the price renegotiated to ensure an accurate reflection of fixed and variable costs. However, if renegotiated, the new unit price shall not exceed the unit price as originally determined through competitive selection.

.42 Any amendment negotiated without competitive bidding shall be negotiated on the basis of amounts reasonable and necessary as documented in writing and maintained in the county records.

.43 Repealed by CDSS Manual Letter No. OPS-01-02, effective 4/17/01.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 12302.1, Welfare and Institutions Code.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS 23-610

HANDBOOK BEGINS HERE

This section contains the requirements for procurement of services by formal advertising, as defined in Section 23-601.21, and specifies the information which shall be contained in an IFB, as defined in Section 23-601.22, or an RFP, as defined in Section 23-601.23.

HANDBOOK ENDS HERE

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) 23-610

(a) Except as provided in Section 23-650, Procurement by Negotiation, all procurements shall be made by formal advertising.

(b) The IFB method of procurement must be used, unless the county documents that the RFP method of procurement is more advantageous, in terms of price and service delivery, before starting the procurement process.

HANDBOOK BEGINS HERE

(1) Request for proposal might be used for:

(A) Management studies.

(B) Demonstration Projects (Welfare and Institutions Code Sections 18200-18215) or other services which are new or experimental in nature.

(C) Procurement of professional services in law, medicine or other professions where fee for service is the primary method of payment.

HANDBOOK ENDS HERE

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) **23-610**

(c) An IFB or RFP shall contain at a minimum the information enumerated below, if applicable to the procurement involved and any other information necessary for bid or proposal evaluation.

(1) County serial number of the IFB or RFP.

(2) Name and address of purchasing agency.

(3) Date of issuance.

(4) Time and place for submission of bids or proposals, including disposition of late bids or proposals and potential reasons for rejecting all bids or proposals.

(5) Time and place of bid or proposal opening.

(6) Period of time for which bid or proposal is to remain in effect.

(7) Information on any guarantee, performance or payment bond required by the county.

(8) Bidder's certification that all statements in the bid or proposal are true. This shall constitute a warranty, the falsity of which shall entitle the county to pursue any remedy authorized by law, which shall include the right, at the option of the county, of declaring any contract made as a result thereof to be void.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) **23-610**

(9) When needed for the purpose of bid or proposal evaluation, preaward surveys, or inspection, a requirement that bidders state the place(s), including the street address, from which the services will be furnished.

(10) Description or specification of services to be furnished, or problem to be solved, in sufficient detail to permit full and free competition. The county shall obtain and distribute information from current contractors necessary for fair bidding by all potential vendors.

(11) Quantity of services to be required. If the bidding document gives the county an option to increase or decrease quantities specified, a statement of the maximum percentage of such increase or decrease shall be included.

(12) Any county requirement for the time, place or method of service delivery.

(13) Citation of, and required bidder conformance to, all applicable provisions of law and regulations. These shall include but not be limited to the Social Security Act, the Civil Rights Act, the Clean Air Act, applicable federal regulations, State Energy Efficiency Plan, California Welfare and Institutions Code, and the State Department of Social Services Manual of Policies and Procedures.

(14) Requirement for each bidder to submit a detailed budget and budget narrative wherein line items are identified as yearly or contract period costs, and where applicable, hourly or unit of service costs.

(15) Requirement for bidders to submit a statement of experience which shall include but not be limited to the following information:

(A) Business name and legal business status (i.e., partnership, corporation, etc.) of the prospective contractor.

(B) Number of years the prospective contractor has been in business under the present business name, as well as related prior business names.

(C) Number of years of experience the prospective contractor has had in providing the required, equivalent or related services.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) **23-610**

(D) Contracts completed during last five years showing year, type of services, dollar amount of services provided, location, and contracting agency.

(E) Details of any failure or refusal to complete a contract.

(F) Whether the bidder holds a controlling interest in any other organization, or is owned or controlled by any other person or organization. Governmental agencies are exempt from this requirement.

(G) Financial interests in any other business. Individuals who are personally performing the contracted service and governmental agencies are exempt from this requirement.

(H) Names of persons with whom the prospective contractor has been associated in business as partners or business associates in the last five years. Governmental agencies are exempt from this requirement.

(I) Explanation of any litigation involving the prospective contractor or any principal officers thereof, in connection with any contract.

(J) An explanation of experience in the service to be provided, or equivalent or similar experience of principal individuals of the prospective contractor's present organization.

(K) A list of major equipment to be used for the direct provision of services.

(L) An audited financial statement. Such statement shall be the most recent and complete audited financial statement available and for a fiscal period not more than 18 months old at time of submission. This statement shall be by an independent, certified public accountant. If the audit is of a parent firm, the parent firm shall be party to the contract. The county may require other information in lieu of the certified financial audit, if it is of equal value in determining the fiscal stability of the competing agency. Such other evidence shall be included in the bid document. Individuals who are personally performing the contracted services and governmental agencies are exempt from this requirement.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) **23-610**

(M) Current financial statements, letters of credit, and guarantor letters from related entities, as required by the county.

(N) A list of commitments, and potential commitments which may impact assets, lines of credit, guarantor letters, or otherwise affect the bidder's ability to perform the contract.

(O) Business or professional licenses or certificates required by the nature of the contract work to be performed and held by the contractor.

(P) An agreement to provide the county with any other information the county determines is necessary for an accurate determination of the prospective contractor's qualifications to perform services.

(Q) Agreement to right of the county, state and federal governments to audit the prospective contractor's financial and other records.

(16) Provision regarding the receipt of late bids as specified in Section 23-611.15.

(17) Description of the evaluation and selection process.

(18) Time and place for awarding of contract.

(19) Protest rights as specified in Section 23-624.

(20) Circumstances under which the IFB or RFP may be canceled as provided in Section 23-614.

(21) A statement that funding for the contract shall be contingent upon the availability of state and/or federal funds as appropriate to the funding source.

(22) A statement noting the existence of any collective bargaining agreement between the current contractor and its workers which is currently in effect within the county.

(d) All invitations for bids and requests for proposal shall allow sufficient time between the date of publication of the IFB or RFP and the submission date to permit prospective bidders to prepare and submit bids or proposals.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) 23-610

(e) IFBs and RFPs shall be publicized in a sufficient manner to insure open and adequate competition. The manner shall include public advertising.

In addition, the following methods are suggested to insure adequate competition:

HANDBOOK BEGINS HERE

(1) Copies of the IFB and RFP should be displayed by the county in an appropriate place, accessible to the public.

(2) A synopsis should be published in a local newspaper of general circulation in sufficient time for potential vendors to receive and respond to the bidding document.

(3) Either the full IFB or RFP or a notice that bids or proposals are being sought should be delivered to a sufficient number of prospective bidders to insure adequate competition. To facilitate this process, counties should establish and maintain mailing lists of potential bidders, including on the list any potential bidder who requests to be added.

HANDBOOK ENDS HERE

(f) If after issuance of the IFB or RFP, but before the time set for opening, it becomes necessary to make changes in quantities, specification, opening dates, etc., or to correct a defective or ambiguous IFB or RFP, such change shall be accomplished by issuance of an amendment to the IFB or RFP. The amendment shall be sent to each vendor to whom the IFB or RFP has been furnished. The amendment shall be publicly displayed as required in Section 23-610(e)(1) above.

(1) Each amendment issued to an IFB or RFP shall:

(A) Be serially numbered.

(B) Include the serial number of the IFB or RFP concerned.

(C) Clearly state the changes made in the IFB or RFP and the extension of time of the submittal date, if any. If no extension of the time set for submission is involved, the amendment shall so state.

(D) Include a warning to potential bidders concerning the effects of failure to comply with the amendment.

23-610 FORMAL ADVERTISING: INVITATIONS FOR BIDS AND REQUESTS FOR PROPOSALS (Continued) **23-610**

(2) Before issuing an amendment, the period of time remaining until the time set for submission, and the need for extending this period by postponing the time set for submission, must be considered. Where only a short time remains before the time set for submission, consideration shall be given to notifying bidders of an extension of time by telegram or telephone. Such notification shall be confirmed in the amendment.

(3) Any information given to a prospective bidder shall be furnished promptly to all other prospective bidders, as an amendment, if such information is necessary to bidders in submitting bids or if the lack of such information would be prejudicial to uninformed bidders. If any amendment is made to the IFB or RFP, no award shall be made unless the amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids or proposals.

(g) IFBs or RFPs shall not be canceled unless cancellation is in the public interest, such as where there is no longer a requirement for the material or service or where amendments would be of such magnitude that a new bidding document is desirable. Where a bidding document is canceled, bids or proposals which have been received shall be returned unopened to the bidders and a notice of cancellation shall be sent to all prospective bidders to whom bidding documents were issued.

(i) Repealed by CDSS Manual Letter No. OPS-01-02, effective 4/17/01.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-611 SUBMISSION OF BIDS OR PROPOSALS 23-611

HANDBOOK BEGINS HERE

This section contains the requirements and policies with respect to the submission of bids or proposals.

HANDBOOK ENDS HERE

.1 Counties in the management of the bid or proposal process shall require that:

.11 Bids or proposals shall be submitted so as to be received in the office designated in the bidding document not later than the exact time set for receipt.

.12 Bids or proposals, with required attachments, shall be submitted in the format specified by the county, and signed. The format shall provide for the desired sequence of the bid content and a model budget.

.13 Bids or proposals shall be filled out, executed, and submitted in accordance with the instructions which are contained in the IFB or RFP. If the bid or proposal is not submitted in the format specified by the county, it shall be rejected, unless the county determines that the nonconformity is not material, in which case it may be considered only if the bidder meets and accepts all the terms and conditions of the IFB or RFP.

.14 The county shall observe the following provisions regarding the receipt and consideration of late bids or proposals. Late bids or proposals are those that are received after the exact time set for receipt in the IFB or RFP:

.141 Any bid or proposal received at the office designated in the IFB or RFP after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(a) The county has set forth an option, to be contained in the bidding document, for acceptance of bids and proposals by registered or certified mail, sent prior to the date specified for the receipt of bids or proposals.

(b) It is determined by the county that the late receipt was due solely to mishandling by the county after receipt at the county agency.

23-611 SUBMISSION OF BIDS OR PROPOSALS 23-611
(Continued)

.15 The only acceptable evidence to establish whether a bid or proposal is late or meets some of the exceptions listed in Section 23-611.14 and .141 above shall be:

.151 The date of mailing of a bid or proposal, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or the receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late.

.152 The time of receipt at the county agency is the time-date stamp of such county on the bid wrapper or other evidence of receipt maintained by the county.

23-612 RECEIPT AND EVALUATION OF BIDS 23-612

HANDBOOK BEGINS HERE

This section contains policies and requirements with respect to the receipt and evaluation of bids.

HANDBOOK ENDS HERE

.1 Upon receipt, each bid shall be noted with a separately identifiable bid number, the date and time of receipt.

.2 All bids received prior to the time set for opening shall be kept unopened and secured in a locked receptacle.

.3 All responses to IFB's shall be opened publicly and the relevant information announced to all parties present.

.31 IFB number.

.32 Submission date.

.33 General description of service being procured.

.34 Names of bidders.

.35 Prices bid.

.36 Any other information the county determines is necessary.

23-612 RECEIPT AND EVALUATION OF BIDS (Continued) 23-612

.4 Examination of copies of bids by interested persons shall be permitted. However, original bids shall not be circulated.

.5 If less than three bids have been received, the county shall examine the reasons for the small number of bids received. The purpose of this examination shall be to ascertain whether the small number of responses is attributable to an absence of any of the prerequisites of formal advertising.

.6 After bids have been opened, award of an IFB must be made to that responsible bidder who submitted the lowest responsive bid unless there is a compelling reason to reject all bids and cancel the bid process. (See Section 23-614.)

23-613 RECEIPT AND EVALUATIONS OF PROPOSALS 23-613

.1 Counties shall use the criteria for receipt and evaluation listed in Section 23-612, with the exception of Section 23-612.3, concerning public opening of bids and Section 23-612.6, concerning awards to the low bidder. However, counties shall be permitted to have public openings of proposals. Counties shall use the following additional criteria in selecting bidders from RFPs.

.11 The originality and effectiveness of the bidder's approach to solving the problem presented in the RFP.

.12 The bidder's background and experience in working with CDSS funded programs, local government and projects similar to the one proposed.

.13 Any cash or in-kind contribution proposed to be included as part of the project.

.2 Although counties are not required to choose the lowest responsible, responsive bidder to an RFP, cost shall be weighed as a major factor in making the evaluation.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-614 CANCELING THE PROCUREMENT PROCESS AFTER OPENING 23-614

.1 The procurement process may be canceled after opening, but prior to award when the contracting officer determines that cancellation is in the best interest of the county for reasons such as those listed below.

HANDBOOK BEGINS HERE

.11 Inadequate, ambiguous, or otherwise deficient specifications were cited in the IFB or RFP.

.12 The services are no longer required.

.13 All otherwise acceptable bids or proposals received are at unreasonable prices.

.14 The bids or proposals were not independently arrived at in open competition, were collusive, or were submitted in bad faith.

.15 The bids or proposals received did not provide competition adequate to ensure reasonable prices in accordance with county resources or generally accepted prices.

.16 No bid or proposal is received which meets the minimum requirements of the IFB or RFP.

.17 The county determines after analysis of the bids or proposals, that its needs can be satisfied by a less expensive method.

HANDBOOK ENDS HERE

.2 All bidders shall be notified in writing of the specific reasons when a county rejects all bids or proposals.

23-615 REJECTION OF BIDS OR PROPOSALS 23-615

.1 Any bid or proposal which fails to conform to the essential requirements of the bidding document, such as specifications or the delivery schedule, shall be rejected as nonresponsive. Bids or proposals submitted by bidders which do not meet the requirements regarding responsibility specified in Section 23-620 shall also be rejected.

.11 When rejecting a bid or proposal, the county shall notify each unsuccessful bidder that the bid or proposal has been rejected.

23-615 REJECTION OF BIDS OR PROPOSALS (Continued) 23-615

.12 A bid or proposal should not be rejected when it contains a minor irregularity or when a defect or variation in the bid or proposal is immaterial or inconsequential.

.121 A minor irregularity means a defect or variation which is merely a matter of form and not of substance, such as:

HANDBOOK BEGINS HERE

(a) Failure of the bidder to return the required number of copies.

(b) Apparent clerical errors.

HANDBOOK ENDS HERE

.122 Immaterial or inconsequential means that the defect or variation is insignificant as to price, quantity, quality, or delivery when contrasted with the total costs or scope of the services being procured.

.123 The county shall give the bidder an opportunity to cure any deficiency resulting from a minor irregularity, immaterial or inconsequential defect in a bid or proposal, or the county may waive such deficiency, whichever is most advantageous to the county.

23-616 INFORMATION REGARDING RESPONSIBILITY OF CONTRACTORS 23-616

.1 Generally, information regarding the responsibility of a prospective contractor (see Section 23-601.24), including preaward surveys if needed, shall be obtained promptly after bid opening.

HANDBOOK BEGINS HERE

.11 Sources for obtaining information regarding the responsibility of prospective contractors include but are not limited to:

.111 Any list of disbarred, suspended, or ineligible individuals or organizations.

HANDBOOK CONTINUES

23-616 INFORMATION REGARDING RESPONSIBILITY OF CONTRACTORS 23-616
(Continued)

HANDBOOK CONTINUES

.112 The prospective contractor.

(a) This could include but not be limited to:

(1) Information contained in or attached to bids and proposals.

(2) Replies to questionnaires.

(3) Current financial data, such as balance sheets, profit and loss statements, cash forecasts, loan commitments, and financial histories of the contractor and affiliated organizations.

(4) Resumes of proposed staff.

(5) List of equipment and facilities.

(6) Subcontracts.

.113 Any other information available within government, including records and information known to county personnel.

.114 Other sources. These could include suppliers, subcontractors, professional organizations, other customers of the prospective contractor, and CDSS.

HANDBOOK ENDS HERE

.2 A preaward survey shall be made when the county does not have sufficient information available to make a determination regarding the responsibility of a prospective contractor.

.21 A preaward survey shall obtain needed information on responsibility in such detail as is commensurate with the dollar value and complexity of the procurement. The county identifies the factors which shall receive special attention and makes those factors applicable to all firms responding to the solicitation.

23-616 INFORMATION REGARDING RESPONSIBILITY OF CONTRACTORS 23-616
(Continued)

HANDBOOK BEGINS HERE

.211 Sources for obtaining preaward survey information include but are not limited to:

(a) Data on hand.

(b) Data from other governmental agencies.

(c) On-site inspection of facilities to be used for performance of the contract.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-620 AWARD OF CONTRACT 23-620

.1 The county shall award the contract to the lowest responsive and responsible bidder to an IFB. In the case of an RFP, the county shall award the contract in accordance with the criteria specified in Section 23-613.

.11 A responsive bidder is defined in Section 23-601.25; a responsible bidder is defined in Section 23-601.24.

.2 When the county has completed their evaluation of bids or -proposals and has made a recommendation for award, all bidders shall be notified of this decision as well as the date and time of any public hearing on the proposed contract.

.3 Repealed by CDSS Manual Letter No. OPS-01-02, effective 4/17/01.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-621 CONTRACT PERIODS 23-621

.1 A contract originally obtained by bid may be renewed without rebidding under the following circumstances if the potential for renewal has been included in the IFB or RFP. Contract terms and rebidding are limited as follows:

.11 Contracts which are procured by formal advertising (IFB or RFP), or negotiated contracts with other governmental agencies or public educations institutions, are normally limited to no more than a three-year term, at which time they must be rebid or, if appropriate, renegotiated under the terms of Section 23-650, Procurement by Negotiation.

.12 Contracts with private individuals, firms, or agencies which are procured through negotiation, are normally limited to a one-year term. Toward the end of the term, the criteria for procurement by negotiation contained in Section 23-650 shall be reapplied to determine whether or not the contract should be procured through formal advertising.

.13 Contracts for the provision of In-Home Supportive Services shall not exceed two years. However, a two-year contract may be renewed at the end of the two-year term without rebidding, for one additional year.

23-621 CONTRACT PERIODS (Continued) **23-621**

.14 Contracts for services which implement CDSS sponsored demonstration projects may have terms to cover the length of the project if necessary to maintain the experimental integrity and continuity of the project.

.15 Contracts for periods longer than those stated above shall be allowed only if CDSS approval is obtained prior to the start of the procurement process.

.151 Counties shall request extended contract periods in writing, and shall describe the program and cost benefits of a longer contract. Counties shall also describe the level of competition for such contracts in their area.

.152 CDSS will review the request for cost impact, overall benefit to the program, the impact on competition of the longer term and conformity to state and federal procurement laws and regulations. CDSS will respond to the county in writing, stating its reasons for any denial of a longer term. CDSS will respond to the county within 15 calendar days of receipt, if the required information is complete or deficient, and within 30 days upon receipt of complete information of its decision on the extended contract term.

.153 The state's time periods, based on actual performance, for approving contracts terms in excess of the terms allowed in regulations during the two years preceding the proposal of these regulations were as follows:

(a) The median time was 46 days.

(b) The minimum time was 27 days.

(c) The maximum time was 88 days.

23-621 CONTRACT PERIODS (Continued) **23-621**

.16 The rate of reimbursement for an additional period let under the circumstance provided in Section 23-621 shall be negotiated with the existing contractor based on the following:

.161 Actual expenditures by the contractor, as documented during the first contract term and approved by the county and CDSS.

.162 Changes in federal, state or county program requirements.

.163 State and federal minimum wage and contractual step merit increases.

.164 Changes in statutory taxes.

.165 Changes in insurance costs.

.166 Profit may be renegotiated but shall not exceed the percentage of profit, based upon total cost, as bid or negotiated in the first term.

.167 Other reasonable costs or increases in cost over which the contractor has no control.

.168 In negotiating costs for an additional term, the county must assure that these costs accurately reflect current contract performance and are not inflated to recover costs which may have been underbid by the contractor during the original bidding process.

.169 The county shall assure, by audit if necessary, that all cost increases are reasonable and necessary to the continuation of the contract.

.17 The duration of Food Stamp Issuance contracts is governed by MPP Section 63-601.242.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-622 RENEWAL PROCEDURES 23-622

.1 The county shall be permitted to renew a contract which meets the criteria of Section 23-621, above, provided:

.11 If approval of the original contract is required by the Board of Supervisors, then the renegotiated contract shall be approved by the Board of Supervisors' in accordance with Section 23-625.

.2 If the county is unable to renegotiate the contract for the extended term, the county shall be permitted to extend the existing contract for a period not to exceed six (6) months if such an extension is necessary to allow time for new bidding.

.3 Repealed by CDSS Manual Letter No. OPS-01-02, effective 4/17/01.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-624 PROTESTS 23-624

.1 The county shall consider any protest or objection regarding the award of a contract, whether submitted before or after the award, provided it is filed within the time period established in the IFB or RFP.

.2 Written confirmation of all protests shall be requested from the protesting parties. The protesting party shall be notified in writing of the final decision on the protest. The notification shall explain the basis for the decision.

.3 Upon request, the county shall submit to CDSS a copy of any protest along with a copy of its response to the protest.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-625 PUBLIC HEARING 23-625

.1 The County Board of Supervisors or, if authorized by the Board, a delegated county department, shall conduct a public hearing on the contract award prior to the effective date of all contracts exceeding $100,000. It is permissible for the formal public approval of a contract to constitute the public hearing. The public hearing shall be scheduled with sufficient time prior to the effective date of the contract to allow sufficient time for the filing and resolution of any unresolved protests to the award. Findings based on the public hearing shall be made available to interested parties.

.2 Upon completion of the entire selection process, the county shall execute a fixed price contract with the successful bidder in accordance with Section 23-604.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Sections 10554 and 12302.1, Welfare and Institutions Code.

23-630 SDSS REVIEW 23-630

.1 Contracts, procurements and amendments for the purchase of services for any other program where state review is required by law or regulation shall be subject to prior CDSS review in accordance with the conditions set forth below.

.2 When CDSS review is required, CDSS shall notify the county of the time frames necessary to submit information for state review, based on the complexity and volume of the contract material requiring state review.

.3 Along with the contract, the county shall submit a summary of the procurement if the procurement information has not been previously required. The summary of the procurement shall include the method of procurement, a listing of all bidders or proposers and their bids, and the county's reasons for the selection.

.4 When submitting a contract amendment, the county shall detail the reason(s) for the amendment, and, if the amendment results in a change of price, a revised contract budget and justification for any price change.

.5 CDSS will review the contract, procurement summary, or contract amendment for compliance with state and federal program and procurement laws and regulations. CDSS will review contract amendment price changes for reasonableness, necessity, and impact on state and federal funding availability. Upon making a determination, the state shall respond to the county in writing, with an approval or denial of state and federal funding of the contract or amendment. If the contract or amendment is not approved, the state shall set forth conditions, if any, by which the county may gain approval for funding.

.51 The state shall notify the county within 15 calendar days of receipt if the material is complete or deficient, and within 45 calendar days of receipt of complete information of its decision on contracts, procurement summaries, or amendments.

23-630 SDSS REVIEW (Continued) **23-630**

.52 Repealed by CDSS Manual Letter No. OPS-01-02, effective 4/17/01.

.6 Contracts providing services prior to required state contract approval may not be eligible for state and/or federal financial participation.

.7 Although it is general policy not to require prior review of contracts unless required by law or regulation, CDSS retains the right to audit and evaluate all county contracts both during and after the contract term.

HANDBOOK BEGINS HERE

.8 Upon final approval of a contract, CDSS shall provide claiming clearance for the contract and assign a specific CDSS contract number.

.9 Additional requirements concerning the review and approval of contracts for electronic data processing are contained in Sections 28-105 and 115.

HANDBOOK ENDS HERE

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-640 EVALUATION OF CONTRACTS 23-640

.1 Counties shall ensure the monitoring and evaluation of contracts for the purchase of social services in accordance with the criteria set forth in Sections 10-150 through 10-153.

.2 Counties shall ensure the completion of a financial audit for each contract, in accordance with the appropriate state and federal audit standards. Audits shall be permitted either through an independent auditor selected by the contractor and funded through the contract, or by county or contracted staff. Counties shall be permitted to limit audits of fixed price, unit of service contracts with private, proprietary agencies, to compliance audits.

HANDBOOK BEGINS HERE

The standards for auditing other government agencies are found in OMB Circular No. A-128, and for nonprofit agencies, public hospitals, colleges, and universities in OMB Circular No. A-110.

HANDBOOK ENDS HERE

.3 Final performance reports and audits shall be completed within 120 days of the completion of a contract. In the case of a multi year contract, audits shall be performed at least every two years.

.4 Monitoring, evaluation, and audit reports shall be made available to CDSS upon request.

.5 Requirements for the audit and evaluation of Food Stamp Issuance contracts are covered in Section 63-601.282.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Section 12302.1, Welfare and Institutions Code.

23-650 PROCUREMENT BY NEGOTIATION 23-650

This section contains policies and procedures which shall be observed by counties in procurements by negotiation, as distinguished from formal advertising, and the limitations upon its use.

.1 Contracts may be negotiated without formal advertising when one or more of the following exists:

.11 When a public emergency exists and the urgency is such that time is not available for formal advertising. This should be applied only in emergencies caused by circumstances outside of the county's control and not for delays caused by county inaction.

.12 If rates established by the state are to be used for payments and CDSS has notified the counties that formal advertising is not necessary for a particular program.

.13 If the aggregate annual amount involved does not exceed $100,000. However, qualifications and price must still be solicited through a manner consistent with the county's own procurement policies. Selection shall be made using the criteria set forth in Section 23-650.2.

.14 For any service to be rendered by any federal, state, or local government agency, public university, public college or other public educational institution. CDSS may require formal advertising when contracts with government agencies or public educational institutions are considered excessive in price when compared to similar services provided through competition, or where competition between public and private agencies is necessary to accomplish program purposes.

23-650 PROCUREMENT BY NEGOTIATION (Continued) **23-650**

.15 For services for which it is impracticable to secure competition. This requirement may be satisfied by one of the following:

.151 When services can be obtained only from a single source. The determination of single source shall be established through a formal, publicly advertised, pre-bid survey to determine that only one source exists or only one source is willing and available to fulfill the contract.

.152 When bids or proposals have been solicited and competition is determined to be inadequate.

.16 For emergency shelter care, contracts providing six (6) or fewer beds.

.17 If the county develops other innovative methods of selection. Such methods shall require prior approval by CDSS and, when appropriate, by the federal grantor agency. When prior federal approval is required CDSS will request such approval. The county shall request approval of an innovative procurement method in writing, including a description of the method, the benefit to the program of using the method, and level of competition in their area to such contracts.

.171 The state will review the request for cost impact, overall benefit to the program to be served, and compliance with state and federal goal, as reflected in these regulations, of encouraging maximum competition. If the state approves of the innovative procurement, it will forward the material, when required, to the appropriate federal grantor agency, with a recommendation for approval. If CDSS denies the request, it will respond to the county giving reasons for the denial, and recommendations, if any, for gaining approval. The state shall also notify the county of federal approval or denial of the innovative procurement method. CDSS will notify the county within 15 calendar days of receipt if the required information is complete or deficient, and within 45 days, upon receipt of complete information, of its decision or that it is forwarding a recommendation for approval to the federal government. CDSS will notify the county within 10 days upon receipt of the federal decision.

23-650 PROCUREMENT BY NEGOTIATION (Continued) **23-650**

.172 The state has not had any requests for using innovative procurement methods during the past two years. Records from any previous requests are no longer available.

.18 Other situations, where unique circumstances necessitate procurement by negotiation, shall require prior CDSS approval and, when necessary, federal agency approval.

.2 Whenever services are to be procured by negotiation, proposals shall be solicited from as many qualified sources as is reasonably practicable. During the course of negotiations, appropriate factors, including the following, shall be considered.

.21 Comparison of prices quoted with prices for the same or similar services from other sources.

.22 Comparison of the business reputation, capacity, and responsibility of the respective persons or forms who submit offers.

.23 Consideration of the quality of the services offered, including the same or similar services previously furnished, with due regard of conformance with specification requirements.

.24 Consideration of the existing and potential workload of the persons or firms submitting offers.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code. Reference: Title 45 Code of Federal Regulations, Section 92.36(d) as amended at 60 Federal Register 19645 (April 19, 1995) and Section 12302.1, Welfare and Institutions Code.